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NOTICE OF ALLOWANCE AND FEE(S) DUE

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7590

03/08/2010

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

EXAMINER

PLUCINSKI, JAMISUE A

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 03/08/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/965.121

09/27/2001

Rick Braumoeiler

120137.460

1774

TITLE OF INVENTION: DYNAMICALLY DETERMINING ACTUAL DELIVERY INFORMATION FOR ORDERS BASED ON ACTUAL ORDER FULFILLMENT PLANS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	06/08/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail**

**Mail Stop ISSUE FEE
Commissioner for Patents
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Alexandria, Virginia 22313-1450
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

500 7590 03/08/2010

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SEATTLE, WA 98104

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE-FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional	NO	\$1510	\$0	\$0	\$1510	06/08/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
PLUCINSKI, JAMISUE A	3629	705-001000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/147; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

1

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

2

3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.111. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1461 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1461 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

09/965,121

Examiner

JAMISUE A. PLUCINSKI

Applicant(s)

BRAUMOELLER ET AL.

Art Unit

3629

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 10/20/09.
2. ☒ The allowed claim(s) is/are 1,7-11,13-19,32-56 and 59-62.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Jamisue A. Plucinski/
Primary Examiner, Art Unit 3629

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jim White on 2/23/10.

The application has been amended as follows:

In the Claims:

Please Amend the following claims as follows:

1. A computer-implemented method, comprising:
receiving from a customer of an item ordering service an indication of one or more items without receiving a request from the customer to initiate an ordering process to order the one or more items; and
before receiving [a] the request from [a] the customer ~~of an item ordering service~~ to initiate [an] the ordering process for the one or more items,
automatically determining multiple geographically distributed item distribution centers that are maintained by the item ordering service and that are each available as an alternative to supply the items to the customer if an order is received from the customer for the items, each of the determined item distribution centers having distinct current inventory that includes the items, the automatic determining of the multiple geographically distributed item distribution centers being performed by one or more programmed computer systems of the item ordering service;
in response to the received indication from the customer of the one or more items,
automatically determining multiple distinct alternative fulfillment plans for supplying the items

to the customer that are each associated with one of the determined item distribution centers such that each of the determined item distribution centers has at least one associated fulfillment plan, each fulfillment plan indicating that the items are to be shipped from the item distribution center associated with the fulfillment plan and indicating a manner of shipping the items from the associated item distribution center to the customer and indicating information about processing that would take place at the associated item distribution center as part of the fulfillment plan to prepare the items for the shipping to the customer, the automatic determining of the multiple distinct alternative fulfillment plans being performed by the one or more programmed computer systems of the item ordering service;

for each of multiple of the determined distinct fulfillment plans, determining a cost of use for that fulfillment plan if the items are supplied using that fulfillment plan, and determining an actual delivery date for that fulfillment plan on which the customer will receive the items if the items are supplied using that fulfillment plan, the determined actual delivery date being based at least in part on the indicated manner of shipping the items for that fulfillment plan and being based at least in part on the indicated information about the processing that would take place at the associated item distribution center for that fulfillment plan, the determining of the cost of use and the determining of the actual delivery date being performed by the one or more programmed computer systems of the item ordering service; and

providing to the customer an indication of each of multiple of the determined fulfillment plans as options for supplying the items to the customer, each indication of a determined fulfillment plan option including the determined cost of use and the determined actual delivery date for that determined fulfillment plan option; and

after an indication from the customer to use a selected one of the indicated determined fulfillment plan options as part of an order for the items, initiating fulfillment of the order for the items using the selected fulfillment plan, so that the customer will receive options for how an order is to be fulfilled and will receive accurate delivery date information for the order prior to order placement.

16. A computer-implemented method for providing to a customer information about actual fulfillment of an order before completion of an ordering process for the order, the method comprising:

receiving from a customer of a merchant an indication of one or more items without receiving a request to initiate an ordering process to order the one or more items; and

[after] in response to receiving the indication from the customer and before receiving the request to initiate the ordering process to order the items,

automatically determining multiple fulfillment plans that are options for fulfilling an order for the items, each fulfillment plan indicating one or more distribution centers from which the items of the order are to be transported to a recipient, the one or more distribution centers for each fulfillment plan being a selected subset of multiple alternative distribution centers of the merchant that each are available to supply at least one of the indicated items, the automatic determining of the multiple fulfillment plans being performed by one or more programmed computer systems of the merchant;

for each of at least some of the determined fulfillment plans, automatically determining a time of actual delivery of the items if that fulfillment plan is used to fulfill the order and determining a cost for fulfilling the order if that fulfillment plan is used to fulfill the order, the determining of actual delivery time based at least in part on information determined about processing that would take place at the distribution centers indicated by the fulfillment plan and on information about transporting of the items from those indicated distribution centers to the recipient, the processing that would take place at those indicated distribution centers for that fulfillment plan including preparing the items for the transporting of the items from those indicated distribution centers, the automatic determining of the time of actual delivery and of the cost for fulfilling the order being performed by the one or more programmed computer systems of the merchant;

automatically selecting one of the at least some determined fulfillment plans to be used for fulfilling the order based at least in part on the determined actual delivery time for the selected fulfillment plan and based at least in part on the determined cost for the selected fulfillment plan, the automatic selecting of the one fulfillment plan being performed by the one or more programmed computer systems of the merchant; and

providing information to the customer about ordering the items that includes the determined actual delivery time for the selected fulfillment plan, so as to enable the customer to order the item from the merchant using the selected fulfillment plan.

54. (Currently Amended) A computer-readable storage medium whose contents include instructions that when executed configure a computing device to provide to a customer information about actual fulfillment of an order before completion of an ordering process for the order, by performing a method comprising:

receiving from a customer an indication of one or more items; and

~~after in response to~~ receiving the indication and before an ordering process for the one or more items is initiated by the customer,

for each of ~~at least one or more~~ multiple fulfillment plans that are options for fulfilling an order for the items and that each indicate one or more of multiple alternative distribution centers of a merchant available to supply items to recipients, from which the items of the order are to be transported to a recipient, the one or more distribution centers for each fulfillment plan being selected from the multiple alternative distribution centers of a merchant that each are available to supply items to recipients and being for use in providing the items of the order for transport to a recipient of the order, automatically determining an actual delivery date of the items if that fulfillment plan is used to fulfill the order and determining a cost for using that fulfillment plan to fulfill the order, the determining of the actual delivery date based at least in part on information about processing that would take place at the distribution centers indicated by the fulfillment plan and on information about transporting of the items from those indicated distribution centers to the recipient;

selecting one of the ~~at least one~~ multiple fulfillment plans to be used for fulfilling the order based at least in part on the determined cost for that one fulfillment plan; and

providing information to the customer about ordering the items that includes the determined actual delivery date for the selected fulfillment plan.

55. The computer-readable storage medium of claim 54 wherein actual delivery dates are determined for at least one fulfillment plan other than the selected fulfillment plan, and

wherein the method further comprises providing to the customer information about the determined actual delivery dates for at least one of the other fulfillment plans in such a manner as to allow the customer to select one of the other fulfillment plans to be used for fulfilling the order.

56. The computer-readable storage medium of claim 54 wherein the computer-readable medium is a memory of a computing device.

57. Please Cancel Claim 57

59. A computing device for providing to a customer information about actual fulfillment of an order at a time of placing the order, comprising:

one or more processors;

a plan determiner component that is configured to, when executed by at least one of the one or more processors and in response to an indication of one or more items, determine ~~one or more~~ multiple fulfillment plans that are options for fulfilling an order received by a merchant for the one or more indicated items, each fulfillment plan indicating one or more of multiple alternative distribution centers of the merchant that each are available to supply items to recipients, ~~from which the items of the order are to be transported to a recipient~~; the one or more distribution centers for each fulfillment plan being selected from the multiple alternative distribution centers and being for use in providing the items of the order for transport to a recipient of the order; ~~of the merchant that each are available to supply items to recipients~~;

an actual delivery time determiner component that is configured to, when executed by at least one of the one or more processors, and for each of at least some of the determined fulfillment options, determine a time of actual delivery of the items if that fulfillment plan is used to fulfill the order, the determining of the actual delivery time being based at least in part on information about processing that would take place at the distribution centers indicated by the fulfillment plan to prepare the items for transporting to the recipient; and

an information provider component that is configured to, when executed by at least one of the one or more processors, provide information to the customer about ordering the items that includes the determined actual delivery time for one of the at least some determined fulfillment plans that is selected to be used for fulfilling the order.

Please Cancel Claims 63-74, 77 and 79-87.

2. Claims 1, 7-11, 13-19, 32-56 and 59-62 are allowed.
3. The following is an examiner's statement of reasons for allowance: CarMax discloses the use of multiple distribution centers which can provide an item, and discloses a table which is used to calculate the delivery time and the cost of delivery. However CarMax fails to disclose automatically determining multiple distribution centers and multiple fulfillment plans using a programmed computer system, where each plan that is determined indicates the manner of shipping it items and the processing and where determining the cost and delivery date and time is based on the fulfillment plan, being done in response to receiving indication from the customer. Therefore a method, program and system where the computer is configured to determine multiple geographically distributed which can provide an item and automatically determining multiple fulfillment plans, which include manner of shipping and processing, by the programmed computer system, where each plan that is determined indicates the manner of shipping it items and the processing and where determining the cost and delivery date and time is based on the fulfillment plan, being done in response to receiving indication from the customer is not anticipated nor rendered obvious over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMISUE A. PLUCINSKI whose telephone number is (571)272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamisue A. Plucinski/
Primary Examiner, Art Unit 3629